UNITED STATES DISTRICT COURT SOUTHERN DISTRICT OF NEW YORK

JEROME POLVAY, individually on behalf of himself and all others similarly situated,

Plaintiff.

VS.

FCTI, INC., and DOES 1-10, inclusive,

Defendant.

Case No.: 1:22-cv-04315-JSR



AMENDED ORDER GRANTING PLAINTIFF'S MOTION FOR APPROVAL OF CLASS NOTICE AND NOTICE PLAN

Plaintiff Jerome Polvay's Motion for Approval of Class Notice and Notice Plan (the "Motion") is hereby GRANTED.

Plaintiff will provide the Notice Administrator with a list (the "Class List") of the names, email address, and mailing address information for the Class members.

The Short Form Notice (in substantially the same form as Exhibit A hereto) will be disseminated via email to those on the Class List for whom the Banks have email address information, and via a physical post card for those on the Class List for whom the Banks only have a physical mailing address, with the Notice Administrator running a check to update mailing addresses before mailing. There will also be publication notice. The Settlement Administrator, Simpluris, Inc., will cause notice to be published in the Sunday edition of the New York Times, as well as the Friday edition of USA Today for the New York metro area during the notice period. This Notice Plan is designed to directly reach every possible class member. This Notice Plan is designed to directly reach every possible Class member.

The Short Form Notice shall include a description of the case and the certified Class definition as set forth herein; a date by which Class members may opt-out of the certified Class;

the address of a Class notice website at which Class members may access the Long Form Notice (in substantially the same form as Exhibit B hereto), the pleadings, the Class certification order, and other related documents¹ and information; and the toll-free telephone number to obtain information about the case. The Short Form Notice shall direct Class members to review the Long Form Notice to obtain the opt-out instructions and other important information. As described in more detail below, the Long Form Notice shall also include a procedure for Class members to opt-out of the certified Class by sending the opt-out request to the Notice Administrator.

Class Counsel shall insert the correct date(s) and deadline in the Short Form Notice and Long Form Notice before the Notice Plan commences, based upon the dates and deadline set forth in this Order. The Parties may by mutual written consent make non-substantive changes to the Class Notice without Court approval.

The Parties agree to use Simpluris, Inc. as the Notice Administrator, which has extensive experience administering class actions in thousands of cases in a wide range of matters. The Notice Administrator will perform Class notice dissemination and administration, reporting to the Parties and the Court whether any Class members opt-out of the certified Class.

Plaintiff will provide the Class member information from the Banks to the Notice Administrator in the form of the Class List by March 18, 2024

The Notice Administrator will initiate the Notice Plan no later than three (3) days after receipt of the Class List via email to those identified for whom the Banks have email addresses for and via U.S. mail to the rest of the Class. For those individuals who will receive the email

¹ The documents that will be included in the settlement website includes the Complaint, FCTI's Answer to the Complaint, the Opinion and Order certifying the Class, the Opinion and Order denying FCTI's motion for summary judgment, as well as any other documents the Court may require, as set forth in ¶ 19 of the Long Form Notice.

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notice, the Notice Administrator will send the Short Form Notice to their last known email address, in a manner that is calculated to avoid being caught and excluded by spam filters or other devices intended to block mass email. For any emails that are returned undeliverable, the Notice Administrator shall mail the Short Form Notice in the manner described below within 10 days after the initial dissemination of the Short Form Notice.

When a valid email address is not available, the Short Form Notice shall be mailed by first class U.S. mail to the best available mailing address. To increase the accuracy of the mailing addresses, the Notice Administrator will run the names and addresses through the National Change of Address Registry and update as appropriate. For any mailed Short Form Notices returned undeliverable, the Notice Administrator will use standard skip tracing devices to obtain forwarding address information and, if the skip tracing yields a different forwarding address, the Notice Administrator shall re-mail the Short Form Notice once to the address identified in the skip trace, as soon as reasonably practicable after the receipt of the returned mail.

Pursuant to the Notice Plan, Class members can obtain the Long-Form Notice, which contains additional information about the case and Class members' rights if they stay in or optout of the certified Class, either by accessing the dedicated notice website (to be maintained by the Notice Administrator) or by submitting to the Notice Administrator a request by mail, telephone, or email. Within a reasonable time before initiating the Short Form Notice, the Notice Administrator will establish the website. The Notice Administrator will also establish and maintain an automated toll-free telephone line for Class members to call with Class-related inquiries, and to answer the frequently asked questions of Class members who call with or otherwise communicate such inquiries. The telephone line and case website will remain operational through the end of opt-out period. The website will remain operational until a final judgment is entered in this action.

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In accordance with Fed. R. Civ. P. 23(b)(3), Class members will be able to opt-out of the

Class by submitting written requests to a dedicated post office box or by email, both to be

maintained by the Notice Administrator, by April 22, 2024, which is the trial date. The opt-out

request must state the Class member's name, address, telephone number, email address (if any),

last four digits of the account number(s), signature, and include a statement indicating a request

to be excluded from the Class.

The Notice Administrator shall maintain a database showing mail and email addresses to

which each Short Form Notice was sent and any Short Form Notices that were not able to be

delivered in accordance with the Notice Plan. In addition to weekly updates to the Parties

regarding the progress of the Notice Plan, the Notice Administrator shall supply a summary

report of the Notice Plan following the opt-out deadline, and if requested by Class Counsel or the

Court, a declaration as to the implementation and completion of the Notice Plan confirming

implementation of the Notice Plan complies with Fed. R. Civ. P 23 and due process, and the

names of any Class members who timely opted-out. The database maintained by the Notice

Administrator shall be available to the Parties' counsel and the Court upon request. It shall

otherwise be confidential and shall not be disclosed to any third party.

SO ORDERED.

Date:

Jed S Ratoff

UNITED STATES DISTRICT JUDGE

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EXHIBIT A

Polvay v FCTI, Inc. Case No.: 1:22-CV-04315-JSR

NOTICE OF PENDING CLASS ACTION

If You Were Assessed ATM Fees for Balance Inquiries at ATM Machines in New York Operated by FCTI, Inc., Which are Located at 7-Eleven Stores, a Class Action Lawsuit May Affect Your Rights.

This is not a solicitation from a lawyer.

What is the lawsuit about? A class action lawsuit has been brought against FCTI, Inc. ("FCTI") alleging that FCTI improperly transmitted two balance inquiry requests to customers' banks when only a single balance inquiry was undertaken at its ATM machines located in 7-Eleven stores in New York, resulting in the customers being assessed double out-of-network ATM fees by their banks for a single balance inquiry transaction. FCTI denies the allegations, or that it has done anything wrong. The Court has not decided who is right. Your legal rights may be affected, however, and you must make a choice.

You received this email because your bank's records indicate you may be a Class member. The Court certified the following Class: All holders of a checking account at one, or more Banks who were assessed more than one fee for a balance inquiry during the same visit to a FCTI ATM in the State of New York from May 1, 2018 to November 16, 2021. "Banks" consist of: New York Community Bank, KeyBank, Webster Bank, M&T Bank, TD Bank, Community Bank, Citizens Bank, NBT Bank, Bank of America, and Wells Fargo.

What are your options? If you are a Class member, you must choose whether to stay in the Class or whether to exclude yourself. If you stay in the Class, and money or benefits are obtained for the Class, you will be notified about how you can share in any money or benefits for which you are eligible. You will be bound by all orders and judgments of the Court, whether favorable or not, and you will not be able to sue FCTI for the legal claims at issue in this case. If you want to stay in the Class, YOU DO NOT HAVE TO DO ANYTHING NOW.

To exclude yourself from the lawsuit and the Class, you must send in a "Request to be Excluded from the Class" in *Polvay v FCTI, Inc.*, Case No.: 1:22-CV-04315-JSR to [INSERT P.O BOX ADDRESS] or by email to [INSERT EMAIL ADDRESS]. Be sure to include your name, address, phone number, email address (if any), last four digits of your account number(s), signature, and include a statement indicating a request to be excluded from the Class. You must email or mail your Exclusion Request postmarked by April 22, 2024. If you exclude yourself, you cannot get any money or benefits from this lawsuit, and you will not be bound by any orders or judgments in this lawsuit. If you do not request exclusion, you may (but do not have to) enter an appearance in the Court through your own lawyer. Detailed information is available at the website and toll-free number listed below.

1-XXX-XXX-XXXX

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EXHIBIT B

United Stated District Court for the Southern District of New York

Polvay v FCTI, Inc. Case No.: 1:22-CV-04315-JSR

NOTICE OF PENDING CLASS ACTION

If You Were Assessed ATM Fees for Balance Inquiries at ATM Machines in New York Operated by FCTI, Inc., Which are Located at 7-Eleven Stores, a Class Action Lawsuit May Affect Your Rights.

A court authorized this notice. This is not a solicitation from a lawyer.

- The party (called "Plaintiff") who brought the lawsuit against FCTI, Inc. ("FCTI") alleges that FCTI improperly transmitted two balance inquiry requests to customers' banks when only a single balance inquiry was undertaken at its ATM machines located in 7-Eleven stores in New York, resulting in the customers being assessed double out-of-network ATM fees by their banks for a single balance inquiry transaction. FCTI denies the allegations, or that it has done anything wrong. The Court has not decided who is right.
- The lawsuit affects your legal rights if you are a member of the Class certified by the Court:
 - All holders of a checking account at one, or more Banks who were assessed more than one fee for a balance inquiry during the same visit to a FCTI ATM in the State of New York from May 1, 2018 to November 16, 2021. "Banks" consist of: New York Community Bank, KeyBank, Webster Bank, M&T Bank, TD Bank, Community Bank, Citizens Bank, NBT Bank, Bank of America, and Wells Fargo.
- This notice is being provided to you in advance of a trial. No judge or jury has concluded that FCTI did anything wrong. For this reason, there is no money available now to distribute to Class members, and there is no guarantee there ever will be. If you are a Class member, however, you have a choice to make now:

YOUR LEGAL RIGHTS AND OPTIONS	
DO NOTHING	Stay in this lawsuit. Await the outcome. Give up the right to sue separately.
	If you are a Class member and do nothing, you may be entitled to money or benefits that may come from a trial or a settlement of the lawsuit. But you will never be able to sue FCTI separately over the legal claims in this lawsuit, and you will be bound by any judgment.
ASK TO BE	Get out of this lawsuit. Get no money or benefits from it if any are awarded. Keep the right to sue separately.
EXCLUDED	If you ask to be excluded from the lawsuit and money or benefits are later awarded, you won't be eligible to share in those. But you will keep any rights to sue FCTI separately over the legal claims in this lawsuit. To ask to be excluded, you must act before Month DD , 2024.

BASIC INFORMATION

1. Why was this notice issued?

A Court has established, or "certified," this case as a class action lawsuit. If you are a Class member, you have legal rights and options before the Court decides whether the claims being made on your behalf are correct. This notice explains all of these things.

Judge Jed S. Rakoff, of the United States District Court for the Southern District of New York (the "Court"), is currently overseeing this case. The case is known as *Polvay v FCTI, Inc.*, Case No.: 1:22-CV-04315-JSR. The person who sued is called the Plaintiff. The entity he is suing, FCTI, is called the Defendant.

2. What is a class action?

In a class action, one or more people called "Class Representative" (in this case, Jerome Polvay) sue on behalf of people who have similar claims. All these people are a "Class" or "Class members." One court resolves the issues for all Class members, except for those who exclude themselves from the Class.

The Court decided that the legal claims in this lawsuit can proceed as a class action.

More information about why the Court is allowing these legal claims to proceed as a class action is in the Court's Opinion & Order certifying the Class, which you may view at www.XXXXXXXXX.com.

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3. Is there any money available now?

WHAT THE LAWSUIT IS ABOUT

4. What is this lawsuit about?

In this lawsuit, Plaintiff claims that FCTI improperly transmitted two balance inquiry requests to customers' banks when only a single balance inquiry was undertaken at its ATM machines located in 7-Eleven stores in New York, resulting in the customers being assessed double out-of-network ATM fees by their banks for a single balance inquiry transaction.

5. What is Plaintiff asking for?

Plaintiff is asking the Court for monetary damages (money) on behalf of the Class. More information about the lawsuit is in the Complaint, which you may view at www.XXXXXXXXX.com.

6. What does FCTI say?

FCTI denies the claims and allegations in the lawsuit. More information about what FCTI says is in its Answers to the Complaints, which you may view at www.XXXXXXXXX.com.

7. Has the Court decided who is right?

No. By establishing the Class and issuing this Notice, the Court is not suggesting that Plaintiff will win or lose this case. Plaintiff must prove his case at trial, which is currently set for April 22, 2024.

WHO IS IN THE CLASS?

8. How do I know if I am part of this?

The Court certified the following Class:

All holders of a checking account at one, or more Banks who were assessed more than one fee for a balance inquiry during the same visit to a FCTI ATM in the State of New York from May 1, 2018 to November 16, 2021. "Banks" consist of: New York Community Bank, KeyBank, Webster Bank, M&T Bank, TD Bank, Community Bank, Citizens Bank, NBT Bank, Bank of America, and Wells Fargo.

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9. I'm still not sure if I am included in the Class.

If you are still not sure whether you are included in the Class, you can visit the website www.XXXXXXXX.com, call toll free X-XXX-XXXX, or write to [ADDRESS] for more information.

YOUR RIGHTS AND OPTIONS

If you are a Class member, you must decide whether to stay in the Class or whether to exclude yourself before a possible trial. You have to decide this by **MONTH DD**, 2024.

10. What happens if I do nothing at all?

If you do nothing, you will stay in the Class. If you stay in, you will be legally bound by all of the decisions that the Court makes, and if Plaintiff obtains money or benefits, you may be entitled to share in those. Regardless of the outcome of the lawsuit, however, you will never be able to sue (or continue to sue) FCTI about the legal claims in this case.

11. What happens if I exclude myself?

If you exclude yourself from the Class, and the lawsuit obtains any money or benefits, you will not be eligible to claim any of that money or those benefits. You also will not be legally bound by the Court's judgments if you exclude yourself. You will be able to sue (or continue to sue) FCTI on your own about the legal claims that are involved in this case, now or in the future, assuming your legal claims are not time-barred (you should consult your own lawyer to make such a determination).

12. How do I request to be excluded?

To exclude yourself, you must send in a "Request to be Excluded from the Class" in *Polvay v FCTI, Inc.*, Case No.: 1:22-CV-04315-JSR. to [INSERT P.O BOX ADDRESS] or by email to [INSERT EMAIL ADDRESS]. Be sure to include your name, address, phone number, email address (if any), last four digits of your member or account number(s), signature, and include a statement indicating a request to be excluded from the class. You must email or mail your Exclusion Request postmarked by April 22, 2024, to: [ADDRESS].

THE LAWYERS REPRESENTING THE CLASS.

13. Do I have a lawyer in this case??

Yes. The Court appointed Lynch Carpenter, LLP as "Class Counsel." You do not have to pay Class Counsel. If you want to be represented by your own lawyer and have that lawyer appear in court for you in this case, you may hire one at your own expense.

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14. How will the lawyers be paid?

If Class Counsel obtains money or benefits for the Class, they may ask the Court for attorneys' fees and expenses. You will not have to pay these attorneys' fees and expenses. If the Court grants Class Counsel's request, the attorneys' fees and expenses will either be deducted from any money obtained for the Class or paid separately by FCTI.

15. May I get my own lawyer?

If you are in the Class, you are not required to hire your own lawyer because Class Counsel is working on your behalf. However, if you want your own lawyer, you can hire one at your own expense. For example, you can ask your lawyer to appear in court for you if you want someone other than Class Counsel to speak for you.

A TRIAL

16. How and when will the Court decide who is right?

If the case is not dismissed or settled, Plaintiff will have to prove his legal claims at a trial. Trial has been set for April 22, 2024. During the trial, the judge and/or jury will hear evidence in order to determine whether Plaintiff or FCTI is right about the legal claims in the lawsuit. There is no guarantee that Plaintiff will win any money or benefits for the Class as a result of a trial.

17. Do I have to attend the trial?

You will not need to attend the trial unless you choose to do so or you are asked to attend by the Court. You and/or your own lawyer are welcome to attend, at your own expense. Check the website or call X-XXX-XXXX and ask to be kept informed of the trial schedule.

18. Will I get money after the trial?

If Plaintiff obtains money or benefits as a result of the trial, you will be notified about how to submit a claim form to participate (if necessary). Currently, the trial date is set for April 22, 2024. It is unknown how long this will take. Information will be posted on the website www.XXXXXXXXXXXxxom as it becomes available. You can access the website whether you stay in the lawsuit or exclude yourself.

GETTING MORE INFORMATION

19. Are more details available?

Visit the website at www.XXXXXXXXXXX.com, where you will find, the Complaint, and FCTI's Answer to the Complaint, the Opinion and Order certifying the Class, the Opinion and Order denying FCTI's motion for summary judgment, as well as any other documents the Court may require. For more information, you may also call toll-free at X-XXX-XXXX, email at info@XXXXXXXXX.com, or write to [ADDRESS].